

**Department of Legislative Services**  
 Maryland General Assembly  
 2007 Session

**FISCAL AND POLICY NOTE**

House Bill 404 (Delegate Montgomery, *et al.*)  
 Health and Government Operations

**Continuing Care in a Retirement Community - Appeal Procedure for Subscriber Grievances**

This bill allows a Continuing Care Retirement Community (CCRC) subscriber to appeal a provider’s proposed resolution of a complaint to the Secretary of Aging.

**Fiscal Summary**

**State Effect:** Maryland Department of Aging (MDoA) special fund expenditures could increase by \$66,800 in FY 2008 to hire an attorney to review CCRC subscriber complaints. Office of Administrative Hearings (OAH) reimbursable expenditures could increase by \$74,000 in FY 2008 to hire an administrative law judge. OAH would recover its costs from MDoA. MDoA special fund revenues would increase by \$140,800 in FY 2008 as MDoA increases CCRC provider fees. Future years reflect annualization and inflation.

(in dollars)	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012
SF Revenue	\$140,800	\$179,400	\$188,300	\$197,700	\$207,600
SF Expenditure	66,800	84,800	89,000	93,500	98,200
ReimB. Exp.	74,000	94,600	99,300	104,200	109,400
Net Effect	\$0	\$0	\$0	\$0	\$0

*Note: () = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate effect*

**Local Effect:** None.

**Small Business Effect:** Although not considered small businesses, CCRC provider payments to MDoA would increase to offset MDoA's additional costs for investigating and referring subscriber grievances to OAH. CCRCs would, in turn, pass that cost on to subscribers.

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## **Analysis**

**Bill Summary:** If a CCRC subscriber is not satisfied with the CCRC provider's proposed resolution of the subscriber's grievance, the subscriber may submit a complaint to the Secretary of Aging within the time and in the manner required by regulations adopted by the Secretary.

Upon receiving the complaint, the Secretary (or designee) must conduct a preliminary review. If the complaint is found to be wholly lacking in merit on its face, the complaint may be dismissed without a hearing. If the complaint is not found to be wholly lacking in merit on its face, the complaint must be referred to OAH.

OAH must promptly hold a hearing and issue a decision on the complaint. If OAH dismisses the complaint as wholly lacking in merit, it must promptly forward an order of dismissal to the complainant. If OAH concludes that the complaint is wholly or partly meritorious, it must promptly forward a proposed order to the Secretary of Aging.

Upon receiving the proposed order, the Secretary must promptly issue an order affirming, reversing, or modifying OAH's order, or remand the complaint to OAH for further proceedings. The Secretary's order must be promptly forwarded to the complainant. The Secretary must adopt regulations governing the conduct of proceedings under the bill.

**Current Law:** A continuing care provider must establish an internal grievance procedure to address complaints of subscribers receiving the provider's services. The procedure must:

- allow an individual to submit a written grievance to the provider;
- require the provider to acknowledge in writing to the subscriber that the provider received the grievance;

- give the individual the right to meet with the provider’s management within 45 days after the provider received the grievance; and
- require the provider to respond within 45 days after receiving the grievance regarding the grievance’s investigation and resolution.

MDoA is authorized to establish and collect CCRC provider fees to recover costs related to CCRC regulation.

**State Revenues:** MDoA special fund revenues would increase by \$140,821 in fiscal 2008 because the department would increase CCRC provider fees to recover its OAH staffing costs related to the bill. Special fund revenues could increase further in future fiscal years if MDoA and OAH were required to hire additional staff as a result of increased CCRC subscriber complaints.

**State Expenditures:** There are 34 CCRCs serving 15,000 subscribers in Maryland. MDoA estimates that, as a result of this bill, the department will receive 300 minor complaints, 100 complaints that are moderately difficult to review, and 12 complaints that are complicated, but did not provide an explanation as to how it arrived at those numbers.

*Department of Aging:* Special fund expenditures could increase by an estimated \$66,768 in fiscal 2008, which accounts for the bill’s October 1, 2007 effective date. This estimate reflects the cost of hiring one attorney to review CCRC subscriber complaints, refer complaints to OAH, and issue orders regarding the complaints following an OAH decision. It includes a salary, fringe benefits, one-time start-up costs, and ongoing operating expenses.

Salary and Fringe Benefits	\$60,445
Operating Expenses	<u>6,323</u>
<b>MDoA FY 2008 Expenditures</b>	<b>\$66,768</b>

Future year expenditures reflect: (1) a full salary with 4.5% annual increases and 3% employee turnover; and (2) 1% annual increases in ongoing operating expenses. Special fund expenditures could increase further in future years if the number of subscriber complaints increases to a number that would necessitate hiring additional staff to handle those complaints.

*Office of Administrative Hearings:* Reimbursable fund expenditures, which would be passed on to MDoA, could increase by an estimated \$74,053 in fiscal 2008, which accounts for the bill's October 1, 2007 effective date. This estimate reflects the cost of hiring one administrative law judge to hear CCRC subscriber grievances and render decisions. It includes a salary, fringe benefits, one-time start-up costs, and ongoing operating expenses. Existing OAH docket clerks and secretaries could provide administrative support to the administrative law judge.

Salary and Fringe Benefits	\$67,730
Operating Expenses	<u>6,323</u>
<b>OAH FY 2008 Expenditures</b>	<b>\$74,053</b>

Future year expenditures reflect: (1) a full salary with 4.5% annual increases and 3% employee turnover; and (2) 1% annual increases in ongoing operating expenses.

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### **Additional Information**

**Prior Introductions:** None.

**Cross File:** SB 257 (Senator Astle) – Finance.

**Information Source(s):** Office of Administrative Hearings, Maryland Department of Aging, Department of Legislative Services

**Fiscal Note History:** First Reader - February 11, 2007  
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